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**State Government Operations &  
Accountability Committee**

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**SSB 5126**

**Brief Description:** Developing policies, procedures, and mandatory training programs on sexual harassment for all state employees.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Kastama, Roach and Keiser).

**Brief Summary of Substitute Bill**

- Develops policies, procedures, and mandatory training programs pertaining to sexual harassment for all state employees.

**Hearing Date:** 2/15/06

**Staff:** Kasa Tupua (786-7291).

**Background:**

Sexual harassment is a form of sex discrimination and is an unlawful employment practice under the federal Civil Rights Act of 1964 and the Washington State Law Against Discrimination (WLAD).

The federal law applies to employers with 15 or more employees, including federal, state and local governments, employment agencies, and labor organizations, and prohibits unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

The provisions of the WLAD apply to employers with 8 or more employees. Under the WLAD, two types of sex discrimination claims are recognized: the quid pro quo sexual harassment claim, where the employer requires sexual consideration from the employee for job benefits, and the hostile work environment claim. The four elements of a prima facie hostile work environment claim are: (1) the harassment was unwelcome; (2) the harassment was because of sex; (3) the harassment affected the terms and conditions of employment; and (4) the harassment is imputable to the employer. The third element requires that the harassment be "sufficiently pervasive so as to alter the conditions of employment and create an abusive working environment[,] . . . to be

determined with regard to the totality of the circumstances." *Glasgow v. Ga-Pac. Corp*, 103 Wn.2d 401, 406-07, 693 P.2d 708 (1985).

By executive order (order) issued in 1989, the state's policy pertaining to sexual harassment was established. This policy requires the state to provide and maintain a working environment free from sexual harassment for its employees and all citizens participating in state programs.

The order directs each state agency to:

- maintain policy statements on sexual harassment;
- respond promptly and effectively to sexual harassment concerns;
- conduct training and education for all employees to prevent and eliminate sexual harassment in the workplace; and
- inform employees of their right to file a complaint with the Washington state Human Rights Commission or with the Federal Equal Employment Opportunity Commission.

The Department of Personnel (Department) must incorporate into its Affirmative Action Program Guidelines criteria addressing compliance with the order.

**Summary of Bill:**

The Director of the Department is directed to adopt rules that develop policies, procedures, and mandatory training programs on sexual harassment for all state employees. State agencies are required to absorb the cost of the training programs.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** This bill contains an emergency clause and takes effect on July 1, 2005.